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8 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. OT2008-129

12 **SHAWNA M. KEMP**
a.k.a., SHAWNA MICHELLE KEMP
13 a.k.a., SHAWNA M. SAFADI
a.k.a., SHAWNA MICHELLE SAFADI
14 a.k.a., SHAWNA KEMP
710 Concho Place
15 College Station, Texas 77840

A C C U S A T I O N

16 Occupational Therapist License No. OT 2364

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Heather Martin (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the California Board of Occupational Therapy, Department of Consumer
23 Affairs.

24 2. On or about September 24, 2002, the California Board of Occupational Therapy
25 (Board) issued Occupational Therapist License No. OT 2364 to Shawna M. Kemp, also known as
26 Shawna Michelle Kemp, Shawna M. Safadi, Shawna Michelle Safadi, and Shawna Kemp
27 (Respondent). The Occupational Therapist License was in full force and effect at all times
28 relevant to the charges brought herein and will expire on May 31, 2010, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b) provides that the suspension, expiration, surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2570.26, subdivision (a) states, in pertinent part:

"The board may, after a hearing, deny, suspend, revoke, or place on probation a license, certificate, inactive license, inactive certificate, or limited permit."

6. Section 2570.28 states, in pertinent part:

"The board may deny or discipline a licensee for any of the following:

"(a) Unprofessional conduct, including, but not limited to, the following:

....

"(e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof."

7. Section 2570.29 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or, except as directed by a licensed physician and surgeon, dentist, optometrist, or podiatrist, to administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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1 "(b) Use to an extent or in a manner dangerous or injurious to himself or herself, to any
2 other person, or to the public, or that impairs his or her ability to conduct with safety to the public
3 the practice authorized by his or her license, of any of the following:

4 "(1) A controlled substance as defined in Division 10 (commencing with Section
5 11000) of the Health and Safety Code.

6 "(2) A dangerous drug or dangerous device as defined in Section 4022."

7 8. Section 2570.30 states:

8 "The board shall retain jurisdiction to proceed with any investigation, action or disciplinary
9 proceeding against a license, or to render a decision suspending or revoking a license, regardless
10 of the expiration, lapse, or suspension of the license by operation of law, by order or decision of
11 the board or a court of law, or by the voluntary surrender of a license by the licensee."

12 9. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

13 "No person shall use, or be under the influence of any controlled substance which is (1)
14 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
15 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
16 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
17 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
18 Schedule III, IV, or V, except when administered by or under the direction of a person licensed
19 by the state to dispense, prescribe, or administer controlled substances."

20 COST RECOVERY

21 10. Section 125.3 provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licensee found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 CONTROLLED SUBSTANCE

26 11. "Cocaine," is a Schedule II controlled substance as defined in Health and Safety Code
27 section 11055, subdivision (b)(6), and is categorized as a dangerous drug pursuant to section
28 4022.

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2.

1 subsequently arrested for being under the influence of a controlled substance. Later, Respondent
2 underwent a blood screen and tested positive for cocaine and/or metabolites.

3 THIRD CAUSE FOR DISCIPLINE

4 (Use of Controlled Substances to an Extent or in a Manner 5 Dangerous or Injurious to Oneself or Others)

6 14. Respondent is subject to disciplinary action pursuant to section 2570.29, subdivisions
7 (b)(1) and (2), on the grounds of unprofessional conduct, in that on or about July 12, 2008,
8 Respondent used a controlled substance to an extent or in a manner dangerous or injurious to
9 herself or to the public, as set forth in paragraph 13 above.

10 DISCIPLINARY CONSIDERATIONS

11 15. To determine the degree of discipline, Complainant alleges that Respondent has a
12 prior conviction, as follows:

13 a. Petty Theft of Retail Merchandise

14 On or about December 20, 1993, Respondent was convicted of one misdemeanor
15 count of violating Penal Code section 490.5, subdivision (a) [petty theft of retail merchandise] in
16 the criminal proceeding entitled *The People of the State of California v. Shawna Michelle Kemp*
17 (Super. Ct. Los Angeles County, 1993, No. C9334070). The Court placed Respondent on
18 probation for 1 year, with terms and conditions. The circumstances surrounding the conviction
19 are that on November 16, 1993, Respondent was arrested for petty theft of retail merchandise.

20 b. Driving When Privilege Revoked or Suspended

21 On or about January 7, 1994, Respondent was convicted of one misdemeanor count
22 of violating Vehicle Code section 14601.1, subdivision (a) [driving when privilege revoked or
23 suspended for other reasons] in the criminal proceeding entitled *The People of the State of*
24 *California v. Shawna Michelle Kemp* (Super. Ct. Santa Clara County, 1994, No. B9313014).

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1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending Occupational Therapist License No. OT 2364, issued to
5 Respondent;

6 2 Ordering Respondent to pay the Board the reasonable costs of the investigation and
7 enforcement of this case, pursuant to section 125.3;

8 3. Taking such other and further action as deemed necessary and proper.

9 DATED: December 3, 2009

10 

11 HEATHER MARTIN
12 Executive Officer
13 California Board of Occupational Therapy
14 Department of Consumer Affairs
15 State of California
16 Complainant